

### **REMARKS/ARGUMENTS**

Claims 1-3, 5 and 7-39 are currently pending in the application. Claims 4 and 6 were previously canceled without prejudice. Claims 1-3, 5 and 7-39 were rejected in the final Office Action mailed June 27, 2008 (hereinafter referred to as "Office Action"). In view of the following remarks and amendments, applicant respectfully requests a timely Notice of Allowance be issued in this case.

#### ***Claim Rejections under 35 U.S.C. § 112***

Claims 1, 25 and 39 were rejected under 35 U.S.C. § 112, first paragraph, as failing to comply with the written description requirement because the claims contain subject matter which was not sufficiently described in the specification. Applicant respectfully disagrees.

Applicant respectfully submits that the amendments are fully supported in Figures 18-35, Paragraphs [0055]-[0074] and other parts of the application. For example, Figure 18 shows (in part): a first visual favorable/unfavorable trade indicator 1806 for a series of consecutive first time intervals (long term - monthly time intervals) for CSCO 1432; and a second visual favorable/unfavorable trade indicator 1804 for a series of consecutive second time intervals (mid term - weekly time intervals) for CSCO 1432. In addition, Figure 18 shows (in part): a first opening value trend (red line 1812) for the first time intervals (monthly time intervals) for CSCO 1432; and a first closing value trend (green line 1810) for the first time intervals (monthly time intervals) for CSCO 1432. The second opening value trend and the second closing value trend can be displayed by clicking on the second visual favorable/unfavorable trade indicator 1804 ([0055], lines 12-19). In view of the following remarks and amendments, applicant respectfully requests a timely Notice of Allowance be issued in this case.

#### ***Claim Rejections under 35 U.S.C. § 103***

Claims 1-3, 5-8, 10-14, 17-18, 20-25, 27-30 and 33-39 were rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent Application Publication No. 2006/0271475 to Brumfield et al. (hereinafter referred to as "Brumfield") in view of U.S. Patent Application Publication No. 2002/0184134 to Olsen et al. (hereinafter referred to as "Olsen"). In addition, claims 16 and 32 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Brumfield in view of Olsen in further view of U.S. Patent 7,174,384 to Fitzpatrick et al. (hereinafter referred to as "Fitzpatrick"). Applicant respectfully submits claims 1-3, 5 and 7-39, as amended, are not obvious over the cited references and are, therefore, allowable under 35 U.S.C. § 103(a) for the reasons stated below.

***Claims 1, 25 and 39***

The Office Action indicated that Brumfield discloses all of the elements except for the first time interval is not equal to the second time interval (page 5, line 14-page 7, line 11). Applicant respectfully disagrees.

First, Brumfield only discloses one time interval, ***not*** two different time intervals as recited in claims 1, 25 and 39:

“A first information display region associated with the first commodity and including a number of locations arranged such that each location corresponds to a price level along at least a portion of a first static price axis is displayed **at a first time**. A second similar information display region associated with the second commodity is also displayed **at that time**.”

([0011] (emphasis added)).

Second, the two sets of market data disclosed in Brumfield are for two different investments, ***not*** two sets of market data for the same investment as recited in claims 1, 25 and 39:

“Indicators associated with items of interest related to the **first commodity** and the **second commodity** are displayed in the first information display region and the second information display region, respectively.”

([0011] (emphasis added)).

Third, Brumfield discloses displaying a net price open position (long position minus short position), ***not*** calculating a first opening value trend for the first time intervals and a second opening value trend for the second time intervals as recited in claims 1, 25 and 39:

“In one embodiment, it may be useful to display the net price open position, where a position is the difference between the number of orders bought (a long position) and the number of orders sold (a short position). . . . This feature incorporates the price levels of these multiple fills to determine the net price at which the fills occurred. The trader can then use this net price to gauge whether trading out of a position would result in a realized gain, loss, or scratch (neither a gain nor a loss).”

([0186]). There is no mention of two different time intervals or two different value trends.

Fourth, Brumfield does not disclose, teach or suggest calculating a first closing value trend for the first time intervals and a second closing value trend for the second time intervals as recited in claims 1, 25 and 39. Instead, Brumfield discloses:

Based on the calculation above, the value of 100 is displayed as the trader's net price of the trader's open position. The net price can be displayed in one of several manners, which include, without limitation, a box 2100 around the net price's price level cell as shown in FIG. 21, a separate column for the display of the net price, a box across the net price's price level, or a distinguishing color for the net price. If a particular trader has a long position as the result of buying quantity, any additional quantity that is bought will cause the net price of the trader's open position to be re-calculated. Preferably, should that trader sell quantity, the trader's position will change but the net price that is displayed will remain constant. Any additional buy quantity will subsequently change both the trader's position and the net price of that position, while all subsequent sell quantity will adjust the trader's position only, and will do so only until the position is closed. Should a trader begin a trading session with a short position as a result having the sell quantity(s) filled, all of the trader's subsequent sell quantity will change both the position and the net price of the trader's open position when such sell quantity is filled. Any buy quantity that has been filled will not change the net price, but will instead affect only the position and only until that position has been closed. As a result, it will be easier for a trader to gauge where (at what price) the trader needs to buy or sell when the net price of the trader's long position is only allowed to increase as the position increases and the net price of the short position is only allowed increase as the position becomes shorter.

([0188]). Again, there is no mention of two different time intervals or two different value trends.

Fifth, Brumfield discloses a visual indicator of the last traded quantity, increasing or decreasing volume, rate of change in volume, or increasing or decreasing price, **not** a first visual favorable/unfavorable trade indicator for the first time interval based on a comparison of the first opening value trend to the first closing value trend and a second visual favorable/unfavorable trade indicator for the second time interval based on a comparison of the second opening value trend to the second closing value trend as recited in claims 1, 25 and 39:

In accordance with a preferred embodiment, therefore, the LTQ marker 700 is a visual indicator of the last traded quantity. Any type of marker may be used as long as it may be recognized by the user as an indicator of quantity. . . . For example, the quantity itself may be presented

numerically or graphically, and color may be used with the quantity indicator to illustrate a trend, such as increasing or decreasing volume or rate of change in volume, or increasing or decreasing price associated with the LTQ.

([0089]).

This benefits a trader in that the display of, and the color designation(s) for, the LTQ provides a visual reference of the market's price movements, status or trends, thereby permitting a trader to quickly absorb additional information, such as the direction of the market's activity. As a result of seeing the changes in the price of the last traded quantities, a trader can more easily determine market status and trends, thereby enhancing the likelihood of the trader entering orders and having those orders filled at desirable prices.

([0094]).

The Office Action indicated that Olsen discloses the second time interval is not equal to the first interval (page 7, lines 11-12). Instead, Olsen discloses that it is hard to compare effective return values for difference intervals, so the “[t]he usual way to enable comparisons between different intervals is through annualization” ([0131]). Applicant respectfully submits that this disclosure does not cure the many deficiencies of Brumfield. Moreover, Olsen does not disclose, teach or suggest calculating opening value trends and closing value trends for two different time intervals, and displaying a visual favorable/unfavorable trade indicator for each time intervals based on a comparison of the opening and closing value trends for each time interval as recited in claims 1, 25 and 39.

Applicant, therefore, respectfully submits that Brumfield and the other cited references, either alone or in combination, do not disclose, teach or suggest the following elements as recited in claims 1, 25 and 39 as amended:

obtaining . . . at least (a) ***a first set of market data . . . based on a series of consecutive first time intervals*** within the time period comprising a first opening value and a first closing value for each consecutive first time interval, (b) ***a second set of market data . . . based on a series of consecutive second time intervals*** within the time period comprising a second opening value and a second closing value for each consecutive second time interval, and (c) ***the first time interval is not equal to the second time interval;***

*calculating a first opening value trend for the first time intervals* using a market trend indicator and the first opening values for the underlying investment, and *a second opening value trend for the second time intervals* using the market trend indicator and the second opening values for the underlying investment;

*calculating a first closing value trend for the first time intervals* using the market trend indicator and the first closing values for the underlying investment, and *a second closing value trend for the second time intervals* using the market trend indicator and the second closing values for the underlying investment;

*displaying a first visual favorable/unfavorable trade indicator for the first time intervals based on a comparison of the first opening value trend to the first closing value trend* for the underlying investment, wherein the first visual favorable/unfavorable trade indicator is *a first color whenever the first closing value trend is greater than the first opening value trend* and the first visual favorable/unfavorable trade indicator is *a second color whenever the first closing value trend is lower than the first opening value trend*; and

*displaying a second visual favorable/unfavorable trade indicator for the second time intervals based on a comparison of the second opening value trend to the second closing value trend* for the underlying investment, wherein the second visual favorable/unfavorable trade indicator is *the first color whenever the second closing value trend is greater than the second opening value trend* and the second visual favorable/unfavorable trade indicator is *the second color whenever the second closing value trend is lower than the second opening value trend*.

As a result, applicant respectfully submits that the cited references do not disclose, teach or suggest all the elements recited in claims 1, 25 and 39 as amended. Accordingly, applicant respectfully submits that claims 1, 25 and 39 are not obvious or the cited references and are, therefore, allowable under 35 U.S.C. § 103(a). Applicant respectfully requests that the rejection of claims 1, 25 and 39 be withdrawn.

#### ***Claims 2-3, 5, 7-24 and 26-38***

Applicant respectfully submits that claims 2-3, 5, 7-24 and 26-38 depend from claims 1, 25 and 39 which are allowable for the reasons stated above, and further distinguish over the cited references. In addition, applicant respectfully submits that the cited references do not disclose, teach or suggest repeating the claimed steps for different time intervals” as recited in claims 20-22. Claims 2-3, 5, 7-24 and 26-38 are, therefore,

Appl. No. 10/691,227  
Amdt. dated Sept. 2, 2008  
Reply to final Office action of Jun. 27, 2008

allowable under 35 U.S.C. § 103(a). Accordingly, Applicant respectfully requests that any rejection of claims 2-3, 5, 7-24 and 26-38 be withdrawn.

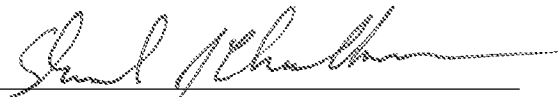
***Conclusion***

For the reasons set forth above, applicant respectfully requests reconsideration by the examiner and withdrawal of the rejections. Applicant submits that claims 1-3, 5 and 7-39 are fully patentable. Applicant respectfully requests that a timely Notice of Allowance be issued in this case. If the examiner has any questions or comments, or if further clarification is required, it is requested that the examiner contact the undersigned at the telephone number listed below.

Date: September 2, 2008

Respectfully submitted,

CHALKER FLORES, LLP

By 

Daniel J. Chalker  
Reg. No. 40,552  
Tel.: (214) 866-0001  
Fax: (214) 866-0010

2711 LBJ Frwy  
Suite 1036  
Dallas, Texas 75234